



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

FEB 04 2005

VIA FEDEX
RECEIPT VERIFICATION REQUIRED

Jerome Dewald

East Lansing, MI 48823

RE: MUR 5385
Groundswell Voters PAC
Jerome Dewald

Dear Mr. Dewald:

On September 10, 2003, and April 28, 2004, the Federal Election Commission attempted to notify Groundswell Voters PAC ("Groundswell") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Although the complaint notification was sent to two different addresses, both times it was returned marked "Attempted, Not Known." Subsequent attempts to locate a valid mailing address for Groundswell have been unavailing. As a result, the Commission is mailing this correspondence to you based on information set forth in Groundswell's Articles of Incorporation, which list you as the incorporator of the organization.

Upon further review of the allegations contained in the complaint, the Commission, on November 30, 2004, found that there is reason to believe Groundswell and you knowingly and willfully violated 2 U.S.C. §§ 438(a)(4), 441h(b), and Groundswell violated 2 U.S.C. §§ 433, 434, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

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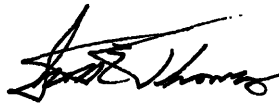
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Julie McConnell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Designation of Counsel Form
Factual and Legal Analysis
Complaint

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1 **FEDERAL ELECTION COMMISSION**
2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Jerome Dewald

MUR: 5385

4 **I. INTRODUCTION**

5 This matter was generated by a complaint filed with the Federal Election Commission by
6 Gephardt for President, Inc. ("Gephardt Committee"), alleging violations of the Federal Election
7 Campaign Act of 1971, as amended ("the Act"), by Groundswell Voters PAC ("Groundswell").
8 As more fully discussed below, the Commission found reason to believe that Groundswell and its
9 incorporator, Jerome Dewald, violated the Act.

10 **II. SUMMARY OF FACTS**

11 **A. Complaint**

12 The Gephardt Committee alleges that Groundswell violated the Act's prohibition on
13 fraudulent solicitations by mailing a fundraising letter requesting contributions to fund a
14 grassroots effort to benefit Gephardt's Presidential campaign. Groundswell's undated
15 fundraising letter, which was attached to the complaint, asserted that the organization planned
16 extensive get-out-the-vote efforts during the primaries in support of Gephardt and stated that the
17 organization was:

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The letter

requested contributions of up to \$5,000 and promised to use the funds it received for grassroots efforts "to help propel Dick Gephardt to the Democratic nomination and on to the Presidency in 2004." *Id.* Groundswell's fundraising solicitation did not contain a disclaimer that the communication was not authorized by the Gephardt Committee.

The Gephardt Committee asserts that it was wholly unaware of the organization's fundraising activities. In August 2003, the Gephardt Committee obtained copies of the fundraising solicitation sent by Groundswell and concluded that the intent of the solicitation was to mislead Congressman Gephardt's supporters for its own private gain rather than to support his campaign. *See* Compl. at 1. Counsel for the Gephardt Committee sent a letter to Groundswell on August 20, 2003, demanding that the organization cease and desist the use of Congressman Gephardt's name. *See id.* at 2. The letter also requested that the group provide a written accounting of funds raised through the solicitation and detail its plans to return the money to the original donors. *See id.*

The Gephardt Committee reportedly received no response to its letter. The Gephardt Committee contends, however, that changes to the organization's website indicate that Groundswell received the letter. Following the cease-and-desist letter mailed by the Gephardt Committee, the website reportedly added the following language:

Please note: Our political agenda has changed but our website is still being updated to reflect these changes. Our recent advocacy of candidates to Federal office may subject your contribution to limitations imposed by the Federal Elections Campaign Act.

Compl. at 2. A printout of Groundswell's website attached to the complaint states, "Before the war we did not advocate the election or defeat of candidates or holders of political office. We

1 now support efforts of the Democratic candidates for the Presidency.” Compl. Attach. B.

2 According to the complaint, the website disavowed any effort to advocate the election or defeat

3 of federal candidates prior to the Gephardt Committee’s attempts to contact the organization.

4 See Compl. Attach. C (copied by Gephardt Committee staff on Aug. 20, 2003).

5 The complaint also alleges that Groundswell obtained the names of the individuals it
6 solicited for contributions from reports on file with the Commission. The Gephardt Committee
7 asserts that “the names of the individuals known to have received the solicitation led the
8 Committee to conclude that Groundswell Voters PAC had obtained them from reports on file
9 with the Federal Election Commission.” Compl. at 1-2. According to the Gephardt Committee,
10 Congressman Gephardt’s reports included contributions from individuals in Missouri who had
11 not contributed to any other candidate or political organization. Because the names and
12 addresses of these contributors were not available from other sources, the Gephardt Committee
13 concluded that Groundswell had obtained the names of the individuals it solicited for
14 contributions from reports filed with the Commission.

15 Finally, the Gephardt Committee alleges that Groundswell violated the Act by failing to
16 register as a political committee with the Commission despite the inclusion of “PAC” in its name
17 and the “large sums spent expressly advocating the election of Federal candidates.” Compl. at 3.
18 Although the complaint and its attachments contain no information regarding how much money
19 Groundswell has raised or spent, Groundswell’s fundraising letters request contributions of up to
20 \$5,000 to support Groundswell Voters PAC’s effort to boost Dick Gephardt. See Compl. Attach.
21 A at 5.

22 The Commission twice attempted to notify Groundswell of the complaint, using the
23 address provided by the organization in its fundraising solicitation and that of its registered agent,

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Jonathan Mosier, set forth in Groundswell's corporate documents. In both instances, the complaint notifications were returned marked "Attempted, Not Known" by the Postal Service. Following the Commission's reason to believe findings in this matter, additional information was pursued concerning the organization's current mailing address.

B. Preliminary Research

Groundswell Voters PAC registered as a Michigan nonprofit corporation on January 28, 2003. Despite its name, it is not registered as a political committee with either the Commission or the Michigan Secretary of State. Although Groundswell's fundraising letter states that it is registered as a 527 organization dedicated to the election of a Democratic President and lists an IRS tax identification number, a search of the IRS database produced no results. *See* Compl. Attach. A at 4 ("Paid for by Groundswell Voters PAC, an independent Political Action Committee, registered with the IRS #061674019 and dedicated to putting a Democrat in the White House.").¹ In addition, both the Groundswell literature and website provide an address in Bethesda, Maryland, but Directory Assistance in Maryland, Virginia and the District of Columbia lists no organization by that name.² Thus, the Groundswell fundraising letter misrepresents the

¹ Groundswell's website is no longer active but its content is partially accessible through the Internet Archives. *See generally* Internet Archive Results for Groundswell Voters, at http://web.archive.org/web/*/http://groundswellvoters.org (last visited Mar. 15, 2004). Groundswell's archived website indicates that the organization initially represented itself as part of the coalition of non-profit organizations opposing the war in Iraq. The original website offered activist kits and anti-war merchandise in return for donations of specified amounts and requested unlimited individual, foreign and corporate contributions to support its anti-war activism, as well as business sponsorship of its website in return for contributions of \$20,000 or more. A message posted on a message board around the time Groundswell appears to have created its website warned potential donors that Groundswell was a telemarketing scam directed at anti-war activists. *See* Posting of Matth65, to Vermont Independent Media Center, at <http://www.vermontindymedia.org/home/assignment> (Mar. 15, 2003).

² Groundswell's fundraising solicitation and literature lists its address as 6701 Democracy Boulevard, Suite 300, Bethesda, MD 20817. The building located at this address, Democracy Boulevard Center, offers executive business suites with lease terms ranging from one month to five years. *See* Democracy Boulevard Center, available at <http://www.executive--suites.com> (last visited Mar. 31, 2004).

organization as a political action committee, provides an invalid address, and presents a false IRS
tax registration number.

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After the complaint against Groundswell was filed, Mosier informed the Commission by letter that he had resigned as Treasurer from Groundswell and no longer had any affiliation with PAC Services.

This notification, dated three days after Dewald's sentencing on state criminal charges, occurred despite the fact that Groundswell never registered with the Commission and had not been notified of the complaint at that point. Despite Mosier's letter, the Michigan Corporation Division's database indicates that Groundswell's corporate registration is active and continues to list Mosier as the registered agent. See Michigan Corporation Division, at http://www.cis.state.mi.us/bcs_corp/rs_corp.asp (last visited Jan. 5, 2005).

III. LEGAL ANALYSIS

A. Fraudulent Solicitation of Funds

Section 441h(a) prohibits any person who is a candidate or an employee or agent of such candidate from fraudulently misrepresenting himself as speaking, writing, or acting for or on

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1 behalf of another candidate or party on a matter that is damaging to that candidate or party. The
2 Bipartisan Campaign Reform Act of 2002 ("BCRA") amended the statute by adding subsection
3 (b), which bans the fraudulent solicitation of funds by any person and prohibits any person from
4 participating in, or conspiring to participate in, plans, schemes, or designs to make such
5 fraudulent misrepresentations in soliciting contributions and donations. *See* 2 U.S.C. § 441h(b);
6 *see also* 11 C.F.R. § 110.16.

7 Subsection (b) was intended to address the Commission's inability under the pre-BCRA
8 statute to pursue enforcement actions against persons and organizations not associated with a
9 candidate who engage in fraudulent solicitation of funds. *See* Final Rule on Disclaimers,
10 Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg.
11 76,962, 76,969 (Dec. 13, 2002). In enacting § 441h(b), Congress cited the Commission's
12 inability to take action against organizations fraudulently soliciting funds by posing as political
13 committees or candidates:

14 [T]he Federal Election Commission reports receiving a number of
15 complaints that people have fraudulently raised donations by
16 posing as political committees or candidates and that the current
17 law does not allow the Commission to pursue such cases....

18 Clearly, one can see the potential for harm to citizens who are
19 targeted in such fraudulent schemes. Unfortunately, the Federal
20 Election Campaign Act does not grant specific authority to the
21 Federal Election Commission to investigate this type of activity,
22 nor does it specifically prohibit persons from fraudulently
23 soliciting contributions. The FEC has asked Congress to remedy
24 this, and the amendment I offer today is in response to this request.
25 This amendment makes it illegal to fraudulently misrepresent any
26 candidate or political party or party employee in soliciting
27 contributions or donations.

28 147 CONG. REC. S3122 (daily ed. Mar. 29, 2001) (Statement of Sen. Nelson). The limited
29 legislative history of subsection (b) indicates that Congress intended the prohibition on

1 fraudulent solicitation to apply to any entity that fraudulently raises donations by posing as a
2 political committee or candidate, or participates in a scheme intended to fraudulently raise
3 donations by posing as a political committee or candidate. *See id.*; *see also Federal Election*
4 *Commission Annual Reports* for 2001 at 39, for 1999 at 47-48, for 1998 at 52, for 1997 at 47
5 (recommending that Congress amend § 441h to prohibit fraudulent solicitation because
6 contributions that people believed were going for the benefit of the candidate were diverted for
7 other purposes, harming both the candidates and the contributors were harmed).

8 Groundswell fraudulently solicited funds by mailing fundraising letters requesting
9 contributions to fund a grassroots effort for Gephardt's Presidential campaign. The letters mailed
10 by Groundswell requested contributions of up to \$5,000 and promised to use the funds it received
11 "to help propel Dick Gephardt to the Democratic nomination and on to the Presidency in 2004"
12 through get-out-the-vote activities including phone calls, door-to-door canvassing and letters to
13 likely supporters during the Iowa and New Hampshire primary elections. The letters were
14 misleading and could have led reasonable people to conclude that the Gephardt Committee
15 authorized the communications or was involved in generating the fundraising solicitation. This
16 is particularly so because the letters did not contain a disclaimer that the communication was
17 unauthorized by the Gephardt Committee or otherwise indicate that Groundswell's purported
18 efforts were independent of the authorized campaign committee, and because some of the
19 contributors targeted by Groundswell allegedly had contributed only to the Gephardt Committee.
20 *See id.* at 4-5.

21 Further, the circumstances present a classic case of fraud. Groundswell made false
22 statements that were intentionally designed to mislead reasonable people. Specifically,
23 Groundswell held itself out as a PAC even though it has not registered with the Commission and

1 provided what appear to be a false address and false IRS registration number on its website.

2 These circumstances, coupled with the fact that the Gephardt Committee was wholly unaware of
3 this organization or its fundraising activities, all point to a fraudulent scam designed to solicit
4 money under false pretenses.

5 Accordingly, based on his involvement with Groundswell and the circumstances
6 presented, there is reason to believe that Jerome Dewald knowingly and willfully violated 2
7 U.S.C. § 441h(b).

8 **B. Use of Information from Disclosure Reports to Solicit Contributions**

9 Any information copied from reports filed with the Commission may not be sold or used
10 by any person for the purpose of soliciting contributions or for commercial purposes, other than
11 using the name and address of any political committee to solicit contributions from such
12 committee. *See* 2 U.S.C. § 438(a)(4). For purpose of this provision, “soliciting contributions”
13 includes soliciting any type of contribution or donation, such as political or charitable
14 contributions. *See* 11 C.F.R. § 104.15(b).

15 The Gephardt Committee alleges that Groundswell copied names from disclosure reports
16 filed with the Commission based on the identity of the individuals targeted by Groundswell. The
17 information provided in the complaint is sufficient to support an investigation into the source of
18 Groundswell’s contributor list in the absence of an alternative explanation, particularly in light of
19 information suggesting that Groundswell intended to defraud potential donors. Accordingly,
20 based upon the circumstances presented, there is reason to believe that Jerome Dewald
21 knowingly and willfully violated 2 U.S.C. § 438(a)(4).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Groundswell Voters PAC

MUR: 5385

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Gephardt for President, Inc. ("Gephardt Committee"), alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Groundswell Voters PAC ("Groundswell").

As more fully discussed below, the Commission found reason to believe that Groundswell violated the Act.

II. SUMMARY OF FACTS

A. Complaint

The Gephardt Committee alleges that Groundswell violated the Act's prohibition on fraudulent solicitations by mailing a fundraising letter requesting contributions to fund a grassroots effort to benefit Gephardt's Presidential campaign. Groundswell's undated fundraising letter, which was attached to the complaint, asserted that the organization planned extensive get-out-the-vote efforts during the primaries in support of Gephardt and stated that the organization was:

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The letter

requested contributions of up to \$5,000 and promised to use the funds it received for grassroots efforts "to help propel Dick Gephardt to the Democratic nomination and on to the Presidency in 2004." *Id.* Groundswell's fundraising solicitation did not contain a disclaimer that the communication was not authorized by the Gephardt Committee.

The Gephardt Committee asserts that it was wholly unaware of the organization's fundraising activities. In August 2003, the Gephardt Committee obtained copies of the fundraising solicitation sent by Groundswell and concluded that the intent of the solicitation was to mislead Congressman Gephardt's supporters for its own private gain rather than to support his campaign. *See* Compl. at 1. Counsel for the Gephardt Committee sent a letter to Groundswell on August 20, 2003, demanding that the organization cease and desist the use of Congressman Gephardt's name. *See id.* at 2. The letter also requested that the group provide a written accounting of funds raised through the solicitation and detail its plans to return the money to the original donors. *See id.*

The Gephardt Committee reportedly received no response to its letter. The Gephardt Committee contends, however, that changes to the organization's website indicate that Groundswell received the letter. Following the cease-and-desist letter mailed by the Gephardt Committee, the website reportedly added the following language:

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2 According to the complaint, the website disavowed any effort to advocate the election or defeat

3 of federal candidates prior to the Gephardt Committee’s attempts to contact the organization.

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6 solicited for contributions from reports on file with the Commission. The Gephardt Committee
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8 Committee to conclude that Groundswell Voters PAC had obtained them from reports on file
9 with the Federal Election Commission.” Compl. at 1-2. According to the Gephardt Committee,
10 Congressman Gephardt’s reports included contributions from individuals in Missouri who had
11 not contributed to any other candidate or political organization. Because the names and
12 addresses of these contributors were not available from other sources, the Gephardt Committee
13 concluded that Groundswell had obtained the names of the individuals it solicited for
14 contributions from reports filed with the Commission.

15 Finally, the Gephardt Committee alleges that Groundswell violated the Act by failing to
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Jonathan Mosier, set forth in Groundswell's corporate documents. In both instances, the complaint notifications were returned marked "Attempted, Not Known" by the Postal Service. Following the Commission's reason to believe findings in this matter, additional information was pursued concerning the organization's current mailing address.

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After the complaint against Groundswell was filed, Mosier informed the Commission by letter that he had resigned as Treasurer from Groundswell and no longer had any affiliation with PAC Services.

This notification, dated three days after Dewald's sentencing on state criminal charges, occurred despite the fact that Groundswell never registered with the Commission and had not been notified of the complaint at that point. Despite Mosier's letter, the Michigan Corporation Division's database indicates that Groundswell's corporate registration is active and continues to list Mosier as the registered agent. *See* Michigan Corporation Division, at http://www.cis.state.mi.us/bcs_corp/rs_corp.asp (last visited Jan. 5, 2005).

III. LEGAL ANALYSIS

A. Fraudulent Solicitation of Funds

Section 441h(a) prohibits any person who is a candidate or an employee or agent of such candidate from fraudulently misrepresenting himself as speaking, writing, or acting for or on behalf of another candidate or party on a matter that is damaging to that candidate or party. The Bipartisan Campaign Reform Act of 2002 ("BCRA") amended the statute by adding subsection (b), which bans the fraudulent solicitation of funds by any person and prohibits any person from participating in, or conspiring to participate in, plans, schemes, or designs to make such fraudulent misrepresentations in soliciting contributions and donations. *See* 2 U.S.C. § 441h(b); *see also* 11 C.F.R. § 110.16.

Subsection (b) was intended to address the Commission's inability under the pre-BCRA statute to pursue enforcement actions against persons and organizations not associated with a candidate who engage in fraudulent solicitation of funds. *See* Final Rule on Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg.

1 After the complaint against Groundswell was filed, Mosier informed the Commission by
2 letter that he had resigned as Treasurer from both Friends and Groundswell and no longer had
3 any affiliation with PAC Services.

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5 charges, occurred despite the fact that Groundswell never registered with the Commission and
6 had not been notified of the complaint at that point. Despite Mosier's letter, the Michigan
7 Corporation Division's database indicates that Groundswell's corporate registration is active and
8 continues to list Mosier as the registered agent. See Michigan Corporation Division, at
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10 **III. LEGAL ANALYSIS**

11 **A. Fraudulent Solicitation of Funds**

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1 76,962, 76,969 (Dec. 13, 2002). In enacting § 441h(b), Congress cited the Commission's
2 inability to take action against organizations fraudulently soliciting funds by posing as political
3 committees or candidates:

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5 complaints that people have fraudulently raised donations by
6 posing as political committees or candidates and that the current
7 law does not allow the Commission to pursue such cases....

8 Clearly, one can see the potential for harm to citizens who are
9 targeted in such fraudulent schemes. Unfortunately, the Federal
10 Election Campaign Act does not grant specific authority to the
11 Federal Election Commission to investigate this type of activity,
12 nor does it specifically prohibit persons from fraudulently
13 soliciting contributions. The FEC has asked Congress to remedy
14 this, and the amendment I offer today is in response to this request.
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21 political committee or candidate, or participates in a scheme intended to fraudulently raise
22 donations by posing as a political committee or candidate. *See id.*; *see also Federal Election*
23 *Commission Annual Reports* for 2001 at 39, for 1999 at 47-48, for 1998 at 52, for 1997 at 47
24 (recommending that Congress amend § 441h to prohibit fraudulent solicitation because
25 contributions that people believed were going for the benefit of the candidate were diverted for
26 other purposes, harming both the candidates and the contributors were harmed).

27 Groundswell fraudulently solicited funds by mailing fundraising letters requesting
28 contributions to fund a grassroots effort for Gephardt's Presidential campaign. The letters mailed
29 by Groundswell requested contributions of up to \$5,000 and promised to use the funds it received

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1 “to help propel Dick Gephardt to the Democratic nomination and on to the Presidency in 2004”
2 through get-out-the-vote activities including phone calls, door-to-door canvassing and letters to
3 likely supporters during the Iowa and New Hampshire primary elections. The letters were
4 misleading and could have led reasonable people to conclude that the Gephardt Committee
5 authorized the communications or was involved in generating the fundraising solicitation. This
6 is particularly so because the letters did not contain a disclaimer that the communication was
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8 efforts were independent of the authorized campaign committee, and because some of the
9 contributors targeted by Groundswell allegedly had contributed only to the Gephardt Committee.
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11 Further, the circumstances present a classic case of fraud. Groundswell made false
12 statements that were intentionally designed to mislead reasonable people. Specifically,
13 Groundswell held itself out as a PAC even though it has not registered with the Commission and
14 provided what appear to be a false address and false IRS registration number on its website.
15 These circumstances, coupled with the fact that the Gephardt Committee was wholly unaware of
16 this organization or its fundraising activities, all point to a fraudulent scam designed to solicit
17 money under false pretenses.

18 Accordingly, there is reason to believe that Groundswell Voters PAC knowingly and
19 willfully violated 2 U.S.C. § 441h(b).

20 **B. Use of Information from Disclosure Reports to Solicit Contributions**

21 Any information copied from reports filed with the Commission may not be sold or used
22 by any person for the purpose of soliciting contributions or for commercial purposes, other than
23 using the name and address of any political committee to solicit contributions from such

committee. *See* 2 U.S.C. § 438(a)(4). For purpose of this provision, “soliciting contributions” includes soliciting any type of contribution or donation, such as political or charitable contributions. *See* 11 C.F.R. § 104.15(b).

The Gephardt Committee alleges that Groundswell copied names from disclosure reports filed with the Commission based on the identity of the individuals targeted by Groundswell. The information provided in the complaint is sufficient to support an investigation into the source of Groundswell’s contributor list in the absence of an alternative explanation, particularly in light of information suggesting that Groundswell intended to defraud potential donors. Accordingly, there is reason to believe that Groundswell Voters PAC knowingly and willfully violated 2 U.S.C. § 438(a)(4).

C. Failure to Register as a Political Committee

The Act defines a political committee as any committee, club, association, or other group of persons that receives contributions or makes expenditures aggregating in excess of \$1,000 during a calendar year. *See* 2 U.S.C. § 431(4)(A). Contributions and expenditures are broadly defined – these terms include anything of value that is given or received for the purpose of influencing a federal election. *See* 2 U.S.C. § 431(8)(A), (9)(A). Pursuant to the Act, an organization that qualifies as a political committee must register with the Commission by submitting a statement of organization within ten days of designation and report receipts and disbursements on a periodic basis. *See* 2 U.S.C. §§ 433, 434.

Despite the fact that Groundswell does not appear to be a legitimate enterprise, Groundswell may have received over \$1,000 in contributions, which would have required the organization to register and report as a political committee. First, the fundraising solicitation attached to the complaint states that Groundswell is “dedicated to putting a Democrat in the

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1 White House.” Compl. Attach. A at 5. In addition, the fundraising solicitation states the
2 following:

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14 Compl. Attach. A at 5. Because these solicitations clearly indicate that funds received would be
15 targeted to the election or defeat of a clearly identified candidate for federal office, they solicit
16 contributions for purposes of the Act. *See FEC v. Survival Education Fund, Inc.*, 65 F.3d 285,
17 295 (2d Cir. 1995). Although information regarding the amount of contributions raised in
18 response to the solicitations is unavailable, it is likely that the amount exceeds \$1,000 based on
19 the large number of individual contributors to Congressman Gephardt and the alleged duplication
20 of contributor information from the Gephardt Committee’s disclosure reports.

21 Accordingly, there is reason to believe that Groundswell Voters PAC violated 2 U.S.C.
22 §§ 433, 434.